Mr. Puthur Achutha Menon (*Kattur*): Sir, I move that the Bill may be referred to a select committee consisting of the following members.—

1. Minister for Food and Education
2. Advocate General
3. Mr. P. T. Jacob
4. ,, P. K. Dewer
5. ,, P. K. Paul,
6. ,, L. M. Pylee
7. ,, K. H. Sulaiman
8. ,, M. O. Thomakutty and
9. ,, the Mover.

Mr. M. O. Thomakutty *(Commerce and Industry)*: I propose Mr. Jos K. Verghese and Mr. S. S. Koder may also be included in the Select Committee.

Mr. P. K. Dewer *(Nominated)*: I propose the name of Mr. K. I. Velayudhan.

Mr. President: The question before the House is that the Cochin Shops and Commercial Establishments Bill be referred to a select committee consisting of the Minister for Food and Education, the Advocate General, Mr. Jacob, Mr. Dewer, Mr. Paul, Mr. L. M. Pylee, Mr. Sulaiman, Mr. Thomakutty, Mr. Koder, Mr. Jos K. Verghese, Mr. K. I. Velayudhan and the Mover.

Motion put and carried

Mr. Puthur Achutha Menon *(Kattur)*: The time for the select committee report may be fixed as two months.

Mr. President: Yes. The Minister for Food and Education will be the Chairman.

(iii) The Cochin Minimum Wages Bill

Mr. P. K. Dewer *(Nominated)*: I move the Cochin Minimum Wages Bill be read in Council.

Mr. K. I. Velayudhan *(Ezhuvas-Talappalli)*: I second it.

*Mr. P. K. Dewer *(Nominated)*: I do not want to make any statement at this stage. It has been observed by the special representative of labour when a similar Bill moved by the Hon'ble Minister was under consideration that in the Government Bill there is a proviso, viz., "Provided that Government shall not be required to fix minimum wages in respect of any scheduled employment where there are in the whole State less than one thousand workmen engaged in such employment". You will find that that proviso does not exist in my Bill and it has also been stated by the lady member Mrs. T. Francis that differenciation is made between the wages of men and women. That differenciation also you will not find in my Bill. If you go through the Bill, you will find the category as "adults, adolescents and children" and not women. The Hon'ble Minister for Food and Education tried to convince me that my definition of minimum wage was not required. Because I am not a lawyer myself and I do not find any harm in the definition being there. On the other hand I find that will be more advantageous also. We are giving direction to the Board that they should in fixing the minimum wage to be fixed consider this. These are things that can be discussed in the Select Committee and if I am convinced I will certainly abide by the majority. In my Bill I have not made provisions for bonus. This Bill was given notice of long ago and there has been much change in the Government since then. It was not the only reason. In the adjudication proceedings we have always found it very difficult to convince the adjudicator of what the minimum wage should be. One of the demand throughout the State, throughout India hasb een that the minimum wage must be raised. But the adjudicator shall not be in a position to fix what would be the minimum wage. Therefore they have prevailed upon the representatives of the labourers to withdraw that demand. It has been done so in the first adjudication that came up before the Chief Justice of the High Court and therefore I thought that there must be a minimum wages bill. In the matter of bonus the adjudicator had not found it very difficult to fix the bonus. It has been accepted now by all well-established firms that bonus is not ex-gratia payment but it is a legitimate right of the labourer. It has been accepted by all well-established firms and they are now giving this. But the only difficulty is that the employees are not getting the due share in the profit. These things can now be well considered by the select committee.

*Speech not corrected by the Hon'ble Member.

LIBRARY ARCHIVES Kerala Legislative Assembly

In the Government Bill, I find another flaw. It is not obligatory on the part of the Government to appoint a board or a committee. Government by itself may fix the wages and the draft of the order will be published in the Gazette and opinions will be called for. But I desire that it should be and must be obligatory on the part of Government to appoint wage boards or committees so that the representatives of labour and employers may sit together and come to an amicable settlement. With these few words I request that the Bill may be read in Council.

Mr. P. Govinda Menon *(Minister for Food and Education):* Government accepts the principles of this Bill and I submit that this Bill may be referred to the same select committee which is appointed to consider the Government Bill.

Mrs. T. Francis *(Womens-Ernakulam):* Let me say one word. To safeguard the interests of women labourers of the State I am of opinion, in the select committee a lady member should be included. So I suggest Mrs. K. M. R. Menon be included in the select committee.

Mr. President: The question before the House is the Cochin Minimum Wages Bill be read in Council.

Motion put and carried

Secretary to the Council: The title of the Bill is the Cochin Minimum Wages Bill.

Mr. P. K. Dewer *(Nominated):* Sir, I move that the Bill may be referred to the same select committee considering the Government Bill plus Mrs. K. M. R. Menon.

Mr. M. Sivarama Menon *(Advocate-General):* Sir, except under extraordinary conditions the strength of the select committee used to be seven. So I suggest that the select committee may not be made too crowded as this.

Mr. President: Order, order. Members need not add now to the membership of the select committee already appointed.

The question before the House is that the Cochin Minimum Wages Bill be referred to the same select committee as that which is considering the Government Minimum Wages Bill.

Motion put and carried

V. THE PRESIDENT'S RULING ON MR. EZHUTHASSAN'S POINT OF ORDER

Mr. President: Before the House adjourns, I have to make a statement. I understand that yesterday after-noon the question came up regarding the intention of what I said with regard to the resolution. My intention was that the resolution which is now under discussion, should be finished and that then immediately Mr. P. Kumaran Ezhuthassan's Motion regarding the Food Administration should be taken up. I did not realise, at the time, that Resolution No. 1 on the paper had not yet been taken up for discussion at all. I took it for granted that the resolution on which discussion had been started would be placed at the head of the paper. I think that the best arrangement is to finish discussion on the resolution on which discussion has been started and then to take up the discussion on the Food question.

The House rose for lunch at 1-30 p.m. and reassembled at 2-30 p.m. with M.R.Ry. L. M. Pylee Avl., Deputy President in the Chair.

VI. BILLS—NON-OFFICIAL— *(cont.)*

(iv) The Cochin Verumpattamdars' Act (Amendment) Bill

Mr. P. Mani *(Kanayannur):* Sir, I move that the Cochin Verumpattamdars Act (Amendment) Bill be read in Council.

Mr. V. R. Krishnan Ezhuthassan *(Oorakam):* I second it.

മിസ്റ്റർ പി. മാണി: സർ, ഈ ബില്ലുകൊണ്ട് ഞാനുദ്ദേശിക്കുന്നത് ഇന്നത്തെ കുടിയാന്മാരിൽ ഒരു വിഭാഗം അനുഭവിച്ചുവരുന്ന ദുരിതങ്ങൾക്ക് ഒരു പരിഹാരം കണ്ടുപിടിക്കണമെന്നുള്ളതാണ്. കൊച്ചിയിലെ കുടിയാന്മാരെ സംബന്ധിച്ചു പറയുകയാണെങ്കിൽ അവരിൽ രണ്ടു പ്രധാന വിഭാഗക്കാരുണ്ട്. ഒന്നാമത്തെ വിഭാഗമാണ് കാണാധാരക്കാർ. അതായത് ഏതാനും സംഖ്യ ജന്മിക്കുകൊടുത്തു വസ്തു കാണാധാരം എഴുതിവാങ്ങി ചില അവകാശങ്ങളും അനുഭോഗംകൊടുത്തു സ്ഥിരാവകാശത്തോടുകൂടി വസ്തു അനുഭവിച്ചുവരുന്ന കാണകുടിയാന്മാർ ഒരു കൂട്ടർ. മറ്റൊരു പ്രധാന വിഭാഗം വെറുംപാട്ടക്കാർ. വസ്തുവിൽ യാതൊരു ശാശ്വതാവകാശവും ഇല്ലാതെ അനുഭോഗം കൃഷിനടത്തി ജന്മിക്കു കൊടു

LIBRARY ARCHIVES Kerala Legislative Assembly

APPENDIX VIII

A BILL TO PROVIDE FOR FIXING MINIMUM WAGES IN CERTAIN EMPLOYMENTS

WHEREAS it is expedient to provide for fixing minimum wages in certain employments; It is hereby enacted as follows:—

Short title and extent.

1. (1) This Act may be called The Cochin Minimum Wages Act of 112 .

(2) It extends to the whole of Cochin.

(3) It shall come into force immediately.

Interpretation.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "adult", "adolescent" and "child" have the meanings respectively, assigned to them in section 2 of the Cochin Factories Act, II of 1113,

(*b*) "employer" means the owner of any place or establishment where there is carried on any scheduled employment in respect of which minimum wages have been fixed under this Act, and includes, except in sub-section (4) of section 16.

(*i*) in a factory, any person named under clause (*e*) of sub-section (1) of section 9 of the Cochin Factories Act, II of 1113,

(*ii*) in any scheduled employments under the control of any Government department the authority appointed by the Government in this behalf or where no such authority is appointed the Head of the Department,

(*iii*) under any local authority the person appointed by such authority in this behalf or where no person is so appointed the Chief Executive Officer of the local authority,

(*iv*) in any other case any person responsible to the owner for the supervision and control of the workmen,

(*c*) "prescribed" means prescribed by Rules made under this Act,

(*d*) "scheduled employment" means an employment specified in the schedule,

(*e*) "wages" has the same meaning as in the Cochin Payment of Wages Act, IV of 1113,

LIBRARY ARCHIVES Kerala Legislative Assembly

(*f*) "workman" means any person employed to do any skilled or unskilled, manual or clerical labour for hire or for reward but does not include any member of the Armed Forces of any Government,

(*g*) "State Minimum Wage" means the wage which will safeguard the normal needs of the average employee regarded as a human being living in a civilised community,

(*h*) "minimum wage" means a wage which is not less than is sufficient to maintain a well-conducted employer of average health, strength and competence and his wife and family of three children in a fair and average standard of comfort, having regard to the conditions of living, prevailing among employees in the calling in respect of which such minimum wage is fixed, and providing that in fixing such minimum wage the earnings of the children or wife of such employee shall not be taken into account.

Fixing of minimum wages.

3. (1) The Government shall, in the manner hereinafter provided,—

(*a*) fix, before the expiry of 6 months the State minimum wage;

(*b*) fix before the expiry of 6 months from the commencement of this Act or as the case may be from the date of the notification under section 17 including the employment in the Schedule, the minimum wages payable to workmen employed in all scheduled employments;

(*c*) revise, at such intervals as it may think fit but in no case exceeding five years, the State minimum wages and the minimum wages so fixed.

(2) In fixing or revising minimum wages under this section,—

(*a*) different minimum wages may be fixed for—

(*i*) different scheduled employments,

(*ii*) different classes of work in the same scheduled employments,

(*iii*) adults, adolescents and children;

(*b*) minimum wages may be fixed by the hour, by the day or by any greater wage period not exceeding one month:

Provided that where any wage periods have been fixed under section 4 of the Cochin Payment of Wages Act,

LIBRARY ARCHIVES Kerala Legislative Assembly

IV of 1113, minimum wages shall be fixed in accordance therewith;

(*c*) minimum wages in respect of piece work shall be fixed so as to enable the normal workman doing his work with normal diligence to earn the same wage in the same time as a workman employed on the same work at time rates;

(*d*) minimum wages in respect of any particular employment shall in no case be less than the State Minimum Wage.

Procedure for fixing minimum wages.

4. (1) In fixing the State Minimum Wage for the first time under this Act the Government shall appoint a Wages Board consisting of equal numbers of persons representing employers and workmen and an independent Chairman to advise it in this behalf.

(2) In fixing the minimum wages in respect of any scheduled employment for the first time under this Act, the Government shall appoint a Committee consisting of equal numbers of persons representing employers and workmen in the scheduled employment to advise it in this behalf.

(3) After considering the advice of the Wage Board appointed under sub-section (1) of this section or as the case may be, of the committee appointed under sub-section (2) of this section the Government shall, by notification in the Cochin Government Gazette, fix the State Minimum Wage, or as the case may be, the minimum wages in respect of each scheduled employment, and unless such notification otherwise provides, it shall come into force on the expiry of three months from the date of its issue.

Advisory Boards and Committees.

5. (1) For the purpose of revising minimum wages fixed under this Act the Government shall appoint as many Advisory Committees as it considers necessary to inquire into the conditions prevailing in any scheduled employment and to advise the Government in making such revision in respect of that employment.

(2) For the purpose of co-ordinating the work of Advisory Committees appointed under sub-section (1) and advising the Government generally in the matter of revision of minimum wages and the State Minimum Wages the Government shall appoint a Wages Board.

LIBRARY ARCHIVES Kerala Legislative Assembly

(3) The Wages Board and the Advisory Committees shall be constituted in the prescribed manner so however that employers and workmen are equally represented thereon.

(4) The Wages Board and the Advisory Committees shall in the conduct of their business follow such procedure as may be prescribed.

Procedure for revision of minimum wages.

6. (1) Before revising any minimum wages fixed under this Act the Government shall consult the Advisory Committee appointed under section 5 and the Wages Board.

(2) Revisions of minimum wages shall be notified by the Government in the Cochin Government Gazette, and unless notification otherwise provides, it shall come into force on the expiry of three months from the date of its issue.

Wages in kind.

7. (1) Minimum wages payable under this Act shall be paid in cash, unless in any case where it has been the custom to pay wages wholly or partly in kind, the Government being of opinion that it is necessary in the circumstances of the case, by notification in the Cochin Government Gazette, authorises the payment of minimum wages either wholly or partly in kind.

(2) The cash value of wages in kind, the payment of which is authorised under sub-section (1) shall be estimated in the prescribed manner.

Payment of minimum wages.

8. Where in respect of any scheduled employment a notification under section 4 or section 6 is in force, the employer shall pay to every workmen engaged in the scheduled employment under him wages not less than the minimum wages fixed by such notification for that workmen's class of work in that employment.

Overtime.

9. (1) For every hour or part of an hour in excess of eight hours during which a workman whose minimum wages are fixed under this Act by the day or longer wage period, works in any day, the employer shall pay him, in addition to his minimum wages so fixed, a sum not less than one eighth of his daily rate.

(2) In this section "daily rate" means the minimum wages fixed under this Act divided by the number of days in the wage period.

LIBRARY ARCHIVES Kerala Legislative Assembly

(3) Nothing in this Act shall prejudice the operation of the provisions of section 47 of the Cochin Factories Act, II of 1113, in any case where those provisions are applicable.

Maintenance of Registers and Records.

10. Every employer shall maintain such registers and records, giving such particulars of workmen employed by him and the wages paid to them and for obtaining the receipts of workmen for their wages, as may be prescribed.

Inspectors.

11. (1) The Government may, by notification in the Cochin Government Gazette, appoint such persons as it thinks fit to be inspectors for the purposes of this Act and define the local limits within which they shall exercise their functions.

(2) An Inspector may, at all reasonable hours, enter on any place where any scheduled employment in respect of which minimum wages have been fixed under this Act is carried on, and make such examination of any register or document relating to the payment of wages and take on the spot or otherwise such evidence of any person and exercise such other powers of inspection, as he may deem necessary for carrying out the purposes of this Act.

(3) Every Inspector shall be deemed to be a public servant within the meaning of the Cochin Penal Code.

Claims.

12. (1) The Government may, by notification in the Cochin Government Gazette, appoint any commissioner for workmen's compensation, or other officer with experience as a judge of a civil court or as a Magistrate to be the authority to hear and decide for any specified area all claims arising out of payment of less than the minimum wages to workmen employed or paid in that area.

(2) Where a workman is paid less than the minimum wages fixed for his class of work under this Act, the workman himself, or any legal practitioner or any official of a registered trade union authorised in writing to act in his behalf, or any inspector, or any person acting with the permission of the authority appointed under sub-section (1) may apply to such authority for a direction under sub-section (3):

Provided that every such application shall be presented within six months from the date on which the minimum wages became payable:

LIBRARY ARCHIVES Kerala Legislative Assembly

Provided further that any application may be admitted after the said period of six months when the applicant satisfies the authority that he had sufficient cause for not making the application within such period.

(3) When any application under sub-section (2) is entertained, the authority shall hear the applicant and the employer or give them an opportunity of being heard and after such further inquiry if any as it may consider necessary may without prejudice to any other penalty to which the employer may be liable under this Act, direct the payment to the workman of the amount by which the minimum wages payable to him exceeds the amount actually paid, together with the payment of such compensation as the authority may think fit not exceeding ten times the amount of such excess.

(4) If the authority hearing any application under this section is satisfied that it was either malicious or vexatious, it may direct that a penalty not exceeding fifty rupees be paid to the employer by the person presenting the application.

(5) Any amount directed to be paid under this section may be recovered.—

(*a*) if the authority is a Magistrate, by the authority as if it were a fine imposed by the authority as a Magistrate, or

(*b*) if the authority is not a Magistrate, by any Magistrate to whom the authority makes application in this behalf, as if it were a fine imposed by such Magistrate.

(6) Every direction of the authority under this section shall be final.

(7) Every authority appointed under sub-section (1) shall have all the powers of a civil court under the Code of Civil Procedure, XXIX of 1111, for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of document, and every such authority shall be deemed to be a civil court for all the purposes of section 172 and Chapter XXXV of the Criminal Procedure Code.

Penalties and procedure.

13. (1) Any employer who pays to any workman less than the minimum wages fixed for that workman's class of work shall be punishable with imprisonment for a

LIBRARY ARCHIVES Kerala Legislative Assembly

term which may extend to six months, or with fine which may extend to Rs. 500 or with both:

Provided that in imposing any fine for an offence under this sub-section the court shall take into consideration the amount of any compensation already awarded against the accused in any proceedings taken under section 12.

(2) Any employer who fails to maintain a register or record required to be maintained under section 10, shall be punishable with fine which may extend to five hundred rupees.

(3) No court shall take cognizance of a complaint against any person for an offence under sub-section (1) unless an application in respect of the facts constituting the offence has been presented under section 12, and has been granted wholly or in part and the authority granting such application has sanctioned the making of the complaint.

(4) No court shall take cognizance of an offence under sub-section (2) except on a complaint made by, or with the sanction of, an inspector.

(5) No court shall take cognizance of an offence.—

(*a*) under sub-section (1) unless complaint thereof is made within one month of the grant of sanction under sub-section (3);

(*b*) under sub-section (2) unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed.

Bar of suits.

14. No court shall entertain any suit for the recovery of wages in so far as the sum so claimed.—

(*a*) forms the subject of an application under section 12, which has been presented by, or on behalf of the plaintiff, or

(*b*) has formed the subject of a direction under that section in favour of the plaintiff, or

(*c*) has been adjudged in any proceeding under that section not to be due to the plaintiff, or

(*d*) could have been recovered by an application under that section.

Contracting out.

15. Any contract or agreement, whether made before or after the commencement of this Act, whereby a workman either relinquishes or reduces his right to minimum

LIBRARY ARCHIVES Kerala Legislative Assembly

wages shall be null and void in so far as it purports to reduce the minimum wages fixed under this Act.

Exemptions and exceptions.

16. (1) The Government may, subject to such conditions, if any, as it may think fit to impose, direct that the provisions of this Act shall not apply in relation to the wages payable to disabled workman.

(2) Nothing in this Act shall apply to the wages payable by an employer to a member of his family who is living with him and is dependent on him.

Explanation.—In this sub-section a member of the employer's family shall be deemed to include his spouse or child or parent or brother or sister.

Power of Government to add to the Schedule.

17. The Government after giving by notification in the Cochin Government Gazette, not less than three months notice of its intention so to do may, by like notification, add to the Schedule any employment in respect of which it is of opinion that minimum wages should be fixed under this Act, and thereupon the Schedule shall be deemed to be amended accordingly.

Power of Government to make rules.

18. (1) The Government may, subject to the condition of previous publication by notification in the Cochin Government Gazette, make rules for carrying out the purposes of this Act.

(2) without prejudice to the generality of the foregoing power, such rules may—

(*a*) prescribe the constitution of the Wages Board and of Advisory Committees;

(*b*) prescribe the procedure in the conduct of business of such Board and Committees;

(*c*) prescribe the method of estimating the cash values of wages paid in kind;

(*d*) provide for giving adequate publicity to minimum wages fixed under this Act;

(*e*) regulate the scales of costs which may be allowed in proceedings under section 12;

(*f*) prescribe the amount of court fees payable in respect of proceedings under section 12;

(*g*) provide for any other matter which is to be or may be prescribed.

LIBRARY ARCHIVES Kerala Legislative Assembly

THE SCHEDULE

(See section 2 (d) and 17)

1. Employment in any cotton, jute, or woollen textiles manufacturing establishment.

2. Employment in any rice mill.

3. Employment in any oil mill.

4. Employment in any saw mill or furniture marts.

5. Employment in any tile or potteries factory.

6. Employment in any tobacco manufacturing (including beedi making).

7. Employment in any engineering (mechanic or/and Electrical Works).

8. Employment in public rail, road or canal transport.

9. Employment in any plantation, that is to say, any estate which is maintained for the purpose of growing Cinchona, rubber, tea or coffee.

10. Employment under any local authority.

11. Employment in stone breaking or stone crushing or quarrying.

12. Employment on road construction or in building operations.

13. Employment in any printing establishment.

14. Employment in Coir and Coir mat manufacture, including all processes connected with it.

15. Employment in Hotels and Catering establishments.

16. Employment in any port including the loading and unloading of Cargo.

17. Employment in Agriculture that is to say, in any form of farming including the cultivation and tillage of the soil, dairy farming, the production, cultivation growing and harvesting of any agricultural or horticultural commodity, the raising of livestock, bees or poultry, and any practice performed by a farmer or on a farm as incidental to or in conjunction with farm operations (including any forestry or timbering operations and the preparation for market and delivery to storage or to market or to carriage for transportation to market of farm produce.)

Statement of Objects and Reasons

The justification for statutory fixation of minimum wages is obvious. Such provisions which exist in advanced countries are even more necessary in this country, where workers' organisations are yet poorly developed and the workers' bargaining power is consequently poor.

2. The Bill provides for fixation of minimum wages for employments covered by the Schedule to the Bill. The items in the Schedule are those where sweated labour is most prevalent or where there is a big chance of exploitation of labour. The Bill also provides for a State Minimum Wage below which a worker should not be paid. There is also provision for periodical revision of minimum wages fixed.

LIBRARY ARCHIVES Kerala Legislative Assembly

3. Provision has been made for the appointment of a Wage Board and Advisory Committees, the former for co-ordinating the work of the committees. The Board and the Committees will have equal representation of employers and workmen. Consultations with the Board and the Committees are obligatory.

4. In cases where an employer pays less than the minimum wages fixed a summary procedure has been provided for recovery of the balance with penalty and for subsequent presentation of the offending party.

5. The period allowed for fixing the minimum wages is six months. The post-war crisis is getting accentuated every day and if the workers are to be saved from the experiences of the crisis that overtook them after the last war, it is absolutely essential that the minimum wage fixing machinery should come into operation immediately.

(Sd.)
P. K. DEWER

LIBRARY ARCHIVES Kerala Legislative Assembly